

Original

1910-11.

(P-14)

FILE No. 42 of 1910-11.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENTS.

JUDICIAL AND LEGISLATIVE (LEGISLATION).

NOVEMBER 1911.

"A" Collection: Serial Nos. 1-6.

The Municipal Regulation Amendment Regulation (regarding licensing of dutiable articles, etc.).

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Previous references

- (1) Municipal File No. 91 of 1908-09.
- (2) " No. 244 of 1907-08.
- (3) " No. 501 of 1906-07.
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- (5) L. B. Miscellaneous F. 189 of 08.
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1910-11.

GENERAL AND REVENUE SECRETARIAT.

LEGISLATION.)

NOTES.

FILE No. 42 OF 1910-11.

The Municipal Regulation Amendment, (regarding licensing of dutiable articles, etc.).

1. The accompanying files containing proposals for amendment of the Municipal Regulation have been received from Branch IV for consideration and scrutiny in this branch. They comprise the following subjects:—

- (i) Enhancement of tax on motor vehicles.
- (ii) (a) Imposition of tax on pilgrims and assignment of portions thereof to a Local Board.
(b) Giving the members of a Sanitary Board that may be formed in districts under the health scheme a status in the Municipal Council.
(c) Empowering Government to frame rules for the preparation and submission to them of plans, estimates, etc., by a Municipal Council in regard to works to be executed out of a Municipal Fund.
- (iii) Insertion of provisions such as are contained in the old regulations *re* search for and seizure of smuggled goods, the issue of licenses for sale of dutiable articles, etc.

2. The last has already been scrutinized in this branch and a draft bill has already been put up making provision also for the imposition of a tax on pilgrims such as is proposed in File No. II. The other provisions proposed may perhaps be embodied in the same draft in their proper places.

3. Perhaps the section proposed, 175A, may be 176A (*vide* draft for approval, II).

Submitted for orders.

T. K. S.

6-4-09.

S. N.

7-4-09.

Remarks by Mr. H. V. Nanjundayya,
2nd Councillor:—

Why should motors be taxed less than 2-horse carriages? The maximum may perhaps be fixed at Rs. 30 and for motor bicycles at Rs. 15.

I. Taxation of motor cars and motor cycles.

The proposed amendment of the schedule may be adopted. The draft Bill appears to be all right.

II. (a) Taxation of pilgrims going to Melkote.

Adding a clause to Section 59 after clause X, as proposed, may be adopted. The new clause will be clause XI of Section 59 and the existing clause XI will be clause XII. (The position of existing clause X need not be disturbed, as proposed in the office note above.)

It would be better to gauge public opinion on the matter. The draft may perhaps be published before Dasara Meeting.

New Section 72A.

The draft clause (which is based on the Bombay Act) is all right but I would invite attention to the fact that in the clause as it stands at present assignment of the tax to a Taluk Board can be made only if that Board has been declared an "independent Board" under Section 13 of the Local Boards Regulation. The question whether this restriction is necessary is for the administrative branch to consider.

II. (b) Giving a status to the members of the Sanitary Board in a Municipal Council.

(1) The draft bill on this point seems to require further consideration. It is proposed to add the words "the members of the Sanitary Board" to clause (a) of sub-section (14) of Section 26. But it is not clear which "Sanitary Board" is here referred to, as there are District Sanitary Boards and the Central Sanitary Board in our Health Department.

(2) If it is the former that is referred to, as probably it is, then the words will have to be more specific.

(3) Attention is also invited to the fact that the District Engineer and the Civil Surgeon of the District are mentioned specifically in the clause now sought to be amended and as they are also members of the District Sanitary Board *ex-officio*, there will be some repetition in amending the clause as proposed. This point will be further investigated after it is definitely known what Sanitary Board is referred to in the proposed amendment.

II. (c) Power to Government to frame rules *re* plans and estimates.

(1) The object of the proposed amendment appears to be to empower Government to assume control, if necessary, over the preparation of plans and estimates of works.

(2) But in the draft estimates of receipts and expenditure generally are also included.

(3) It is not known whether the retention of this *phrase* is intended to meet the case of the ordinary annual budget. But the restrictive conditions of the last clause are not made applicable to this. If they are to be so applicable, the words "and estimates of receipts and expenditure" have to be added after the words "such plans and estimates for works."

(4) If, however, the new clause is not intended to apply to ordinary "estimates of receipts and expenditure," then those words may be struck out from the draft altogether.

III. I understand that this has already been approved by the Secretary.

The statements of objects and reasons may be consolidated and then scrutinized, as all the amendments are to form part of one single bill.

S. HIRIYANNAIYA.

2-7-09.

5. All the amendments are put together for perusal of the Assistant Secretary, Branch IV. It is believed that the statements of objects and reasons will be consolidated in Branch III.

6. The following particulars are noted with reference to the remarks of the Assistant Secretary, Branch III.

7. The addition to Section 59 may be numbered as XI instead of X. Why this branch proposed to number it as X is because that it may bear the number given to this sub-section in the Bombay Municipalities Act.

Yes.

K. MYLAR RAO.
9-7-09.

The section is drafted so as to follow as closely as possible the wording of the corresponding Bombay Section (72). It seems more desirable to have it as drafted.

K. MYLAR RAO.
9-7-09.

8. The Section 72A as drafted may remain. If the Taluk Board be not independent, the contribution will be made to the District Board to which the Taluk Board is subordinate. If the Taluk Board be not independent, the question of contribution to such a Board does not arise at all.

9. The words proposed to be added are "the members of the Sanitary Boards." Both the Boards, namely, the District and the Central Sanitary Boards, are meant. The draft seems therefore to be correct. [The office is not quite sure that the Sanitary Board referred to in Section 26 (14) (a) of the Bombay District Municipalities Act, III of 1901, is the Central Sanitary Board. It may be the Sanitary Board mentioned in Part III of the Bombay Village Sanitation Act, I of 1889. The office is not in a position to give any information on this point definitely.]

The amendments proposed are on the analogy of the Bombay District Municipal Act [Section 26 (14) (a) and (b).] They are not important and may perhaps be omitted for the present.

K. MYLAR RAO.
9-7-09.

10. Repetition cannot be avoided.

11. Section 169 (2) of the Municipal Regulation says that the annual budget estimate of income and expenditure should be sanctioned by Government. But there is no provision in the Regulation empowering Government to prescribe a form for the preparation of the budget. Hence by the proposed addition, power will be taken to prescribe rules for the preparation of the budget estimates. The draft does not seem to require alteration as suggested. Perhaps the word "receipts" may be substituted by "income."

[Vide Section 31(g) of the Local Boards Regulation.] No alteration seems necessary.

K. MYLAR RAO.
9-7-09.

H. V. K.

7-09.

12. Please see the remarks on the margin of the above notes. Submitted for orders.

K. MYLAR RAO.

9-7-09.

34. Branch IV has not been able to trace the file referred to in (1).

The file referred to in (2) has been obtained and put up.

T. K. S.

11-1-10.

S. N.

13-1-10.

35. Forwarded to the Under-Secretary on duty with the Dewan.

S. HIRIYANNAIYA.

17-1-10.

36. Draft letter to the Residency approved by the Dewan. *Vide* also remark on page 21 of routine notes.

K. MATTHAN.

12-3-10.

37. Superseded by Dewan's order dated 19th April 1910.

38. Draft bill to amend the Mysore Municipal Regulation, 1906.

Recirculated to Council.

In view of what has been stated in para 6 of our letter to the Residency No. Pol. 901, dated 29th April 1905, *re* pilgrim tax (*vide* His Highness' order dated 13th March 1905), and the difficulty we experienced in regard to the imposition of this tax recently at Sravana-belagola, would it not be desirable to omit the amendments in regard to pilgrim tax.

T. ANANDA ROW.

19-4-10.

39. I am disposed to agree. Pilgrim tax somehow strikes one as being a relic of older times unsuited to present prevailing notions.

H. V. NANJUNDAYYA,

28-4-10.

40. A tax on pilgrims is opposed to public sentiment as was seen in the Sravanabelagola jatra. As pointed out in the Residency letter, the imposition of the tax is optional with Government, but power might have been taken under the Regulation to levy the tax when considered necessary. If this view does not commend itself to the Dewan, I have no objection to the amendment being left out.

K. P. PUTTANNA CHETTY.

2-5-10.

Submitted to His Highness.

I submit for approval the draft of a Bill to amend the Mysore municipal regulation, 1906, with the Statement of Objects and Reasons, and a draft of a D. O. letter to the Resident intimating that it is proposed to place the Bill before the Legislative Council.

(2) The particulars of the amendments proposed and the reasons therefor are clearly explained in the Statement of Objects and Reasons.

(3) The draft as originally prepared included provisions similar to those contained in the Bombay District Municipalities Act, authorising the levy of a tax on pilgrims resorting to a shrine situated within the limits of a Municipality, the collections from this source being intended to be utilised for ensuring the health, safety and convenience of the pilgrims. The insertion of such a provision was suggested by the Residency when the draft of the Municipal Regulation of 1906 was under discussion, but it was considered that such a tax would be highly unpopular, especially in a Native State. But the question was again raised in 1907 in connection with the provision of funds for improvements required to the Melkote Town, when the Council recorded a resolution in favour of taking power under the Municipal Regulation to impose a pilgrim tax, and this was approved by His Highness in order dated 2nd March 1907. The necessary provisions were accordingly inserted in the present draft Bill, but in view of the extreme unpopularity of such a tax, as evidenced by the recent experience at Sravanabelagola, I suggested to the Councillors that these provisions might be omitted. The Second Councillor is disposed to agree. The First Councillor has noted that a tax on pilgrims is opposed to the public sentiment, but that if there was an enabling provision in the Regulation, the levy of such a tax would be optional. He has, however, no objection to the clauses relating to this tax being left out.

(4) The clauses referred to (clauses 3 and 4 as originally drafted) may be left out, lest under such a provision attempts should be made to impose such a tax and the Government should have to retrace their steps, as happened at Sravanabelagola recently. A pilgrim tax is a poll tax which is always unpopular and difficult to enforce.

T. ANANDA ROW.

11-5-10.

Order.

42. Approved.

K. R. W.
12-5-10.

43. Submitted. May the drafts be issued now?

T. K. S.
18-5-10.

44. Yes.

N. RAMA RAO.
19-5-10.

45. The draft D. O letter to the Hon'ble the Resident has been issued from the Dewan's office and the file resubmitted.

C. E. R.
23-5-10.

1. D. O. letter No. 891, dated 21st May 1910, to the Hon'ble the Resident.

Forwards a copy of the draft Bill to amend the Mysore Municipal Regulation, 1906, and informs that the Bill will be placed before the Mysore Legislative Council in due course.

2. No. 3567, dated 9th June 1910, from the First Assistant Resident.

Informes that there is no *prima facie* objection to the draft Bill being placed before the Mysore Legislative Council.

46. Leave was given to introduce the Bill before the Legislative Council at the meeting held on the 15th August 1910. The Bill was introduced and read at the meeting of the Council held on the 22nd November 1910, when it was referred to a Select-Committee for consideration. The report of the Select Committee and the Bill as amended by that body were considered at the meeting held on the 27th April 1911, when it was resolved to take up and pass the Bill as adopted by the Council at a subsequent meeting. The sanction of the Government of India has now to be obtained for the Bill being finally passed as law. Submitted with a draft for approval.

T. K. S.
11-6-11.

S. HIRIYANNAIYA.
19-6-11.

47. Draft approved.

H. V. NANJUNDAYYA.
21-6-11.

48. Draft approved by the Dewan.

24-6-11.

49. Issue.

C. S. BALASUNDARAM IYER.
26-6-11.

3. No. Pol. 10, dated 4th July 1911, to the First Assistant Resident.

Forwarding a copy of the Bill to amend the Municipal Regulation as adopted by the Legislative Council for obtaining the sanction of the Government of India for passing the same into Law.

4. No. 4536, dated 31st July 1911, from the First Assistant Resident.

Conveys the sanction of the Governor-General of India in Council for passing the Bill into law subject to the usual reservation of power vested in him by virtue of Article 19 of the Instrument of Transfer.

50. The Bill has been finally approved by the Legislative Council. The sanction of His Highness the Maharaja has to be obtained for the promulgation of the Bill as law. Submitted with a copy of the Bill as finally passed for the Dewan's certificate being appended thereto as required by Rule 52 of the Legislative Council Rules.

S. N.
15-9-11.

S. HIRIYANNAIYA.
20-9-11.

C. S. BALASUNDARAM IYER.
20-9-11.

Proceedings of the Government of His Highness the Maharaja of Mysore.

The Municipal Regulation Amendment Regulation (regarding licensing of dutiable articles, etc.).

FILE NO. 42 OF 1910-11.

D. O. No. 891—En. 21, dated the 2nd May 1910, from T. Ananda Row., Esq., B.A., Dewan, to the Hon'ble S. M. Fraser, Esq., C. I. E., Resident.

I enclose herewith a copy of a Draft Bill to amend the Mysore Municipal Regulation of 1906. The nature and object of the changes proposed to be introduced are explained in the statement of objects and reasons appended and it is unnecessary here to dwell at length on them. The only important provisions are those contained in clause 2 which relates to the regulation of carts plying for hire and is intended to bring the law in the Bangalore City Municipality on a line with that obtaining in the Civil and Military Station, Bangalore. (Please see correspondence ending with this office letter Pol. No. 178, dated the 26th August 1908.)

2. It is intended to place the draft Regulation before an early meeting of the Legislative Council.

BILL TO AMEND THE MYSORE MUNICIPAL REGULATION, VII OF 1906.

Whereas it is expedient to amend in certain respects the Mysore Municipal Regulation VII of 1906, His Highness the Maharaja is pleased to enact as follows:—

1. In Section 48, sub-section (1) clause (k), after the words "providing for the exhibition of tables of Octroi," the following words shall be inserted, namely,— "requiring a license to be obtained for the sale of any article liable to octroi and prescribing the conditions on or subject to which such license may be granted, refused, suspended or withdrawn."

2. Clause (w) of sub-section (1) of Section 48 shall be numbered as clause (y) and there shall be inserted the following clauses after clause (v) of the said sub-section, namely,—

"(W) rendering licenses necessary for the proprietors or drivers of vehicles or animals kept or plying for hire or for profit within the Municipality and prescribing the conditions on or subject to which such licenses may be granted, refused, suspended or withdrawn";

"(X) limiting the rates which may be demanded for the hire of any carriage, cart or other conveyance, or of any animal hired to carry loads or for the services of persons hired to carry loads and the loads to be carried by such conveyances, animals or persons, when hired within the Municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours."

3. After Section 77 the following section shall be inserted, namely,—

"77 A. (1) Any person selling or keeping for sale without a license any article liable to octroi for the sale of which a license is required to be obtained, or having in his possession any such article on which octroi has not been paid, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale or possessed or rupees one hundred whichever may be greater; and

"(2) Any officer of the Municipal Council authorized by the Municipal Council in this behalf, if he has reason to believe that any such article on which octroi has not been paid, is kept or concealed in any premises, may, after obtaining the warrant of a Magistrate, enter and search at any time such premises and, if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

"Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the Municipality within twenty-four hours from the time of such seizure or arrest.

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The Municipal Regulation Amendment Regulation (regarding licensing of dutiable articles, etc.,)

"Provided also that nothing in this section shall apply to any such article not exceeding rupees two hundred in value purchased by any person for the personal use of himself or any member of his family or sold by auction consequent on the owner dying or quitting the station."

(3) The provisions of the Code of Criminal Procedure shall, so far as may be, apply to all searches and arrests effected under this section."

Searches and arrests to be governed by the provisions of the Criminal Procedure Code.

4. After Section 175 the following section shall be inserted, namely :—

Addition of a section after section 175.

"175 A. The Government may, from time to time, make rules not inconsistent with this Regulation as to the preparation of plans and estimates for works which are to be partly or wholly constructed out of the Municipal Fund, and the authority by whom, and the conditions subject to which such plans and estimates for works may be sanctioned."

Government may frame rules as to the preparation, etc., of plans and estimates for works.

5. In Schedule I, above the words "for every other vehicle with springs and every palanquin, bicycle or tricycle, Rs. 6-0-0" there shall be inserted the following, namely :—

Amendment of Schedule I.

"For every motor car	...	...	...	30	0	0
For every motor cycle	...	...	...	15	0	0

tatement of Objects and Reasons.

The Municipal Regulation introduced into the State in 1906 has been found to be defective in some important particulars, and the object of the proposed Bill is to remedy these defects.

Clause 1. The old Municipal Regulation of 1871 [as amended by Regulation VII of 1899] which was in force in Bangalore and Mysore Cities prior to the introduction of the present Regulation, authorised the Municipal Councils to regulate the sale of dutiable articles by requiring licenses to be taken for their sale. As the present Regulation contains no corresponding provision and as the need for it has been felt by the Bangalore Municipal Council, it is proposed to amend suitably clause (k) of sub-section (1) of Section 48 of the present Regulation.

Clause 2. This clause gives power to the Municipal Councils to regulate the use of carts plying for hire within Municipal limits. The draft is based on Section 137 (a) and (b) of the Municipal Act as in force in the Civil and Military Station, Bangalore.

Clause 3. The old Municipal Regulation contained a provision empowering specially authorised officers of the Municipality to seize dutiable goods that were suspected to have been smuggled. There is no provision corresponding to this in the present Regulation. This defect is now sought to be remedied by this clause. It is to be noted that the penalty of confiscation provided for in the old Act for smuggling has not been adopted, as unnecessarily stringent.

Clause 4. This is based on Section 31 (g) of the Mysore Local Boards Regulation and supplies a defect in procedure, in regard to the sanctioning of certain major works to be undertaken by a Municipality.

Clause 5. The maximum rate at which a motor car or a motor cycle can, at present, be taxed under Section 59 (ii) of the present Regulation is Rs. 6 a year. This limit is considered too low and it is proposed to fix Rs. 30 per annum for motor cars and Rs. 15 for motor cycles.

D. O. No. 35, dated Bangalore, 9th June 1910, from Major W. G. Grey, First Assistant Resident, to the Dewan, Mr. T. Ananda Row.

I am desired to acknowledge the receipt of your D. O. letter No. 891, dated the 21st May 1910, forwarding a copy of a draft Bill to amend the Mysore Municipal Regulation, VII of 1906, and, in reply, to state that the Resident sees no *prima facie* objection to the draft Bill being laid before the Legislative Council. **Serial No. 2.**

Proceedings of the Government of His Highness the Maharaja of Mysore.

The Municipal Regulation Amendment Regulation (regarding licensing of dutiable articles etc.,

Letter Pbl. No. 404, dated the 7th November 1911, from the Secretary to Government, General and Revenue Departments, to the First Assistant Resident in Mysore, Bangalore.

I am directed to forward herewith a copy of Regulation No. IX of 1911, **Serial No. 6** a Regulation to amend the Mysore Municipal Regulation, VII of 1906, with 9 spare copies and to request that a copy may, as usual, be forwarded to His Highness the Nizam's Government.

REGULATION NO. IX OF 1911.

*(Received the assent of His Highness the Maharaja on the 27th day of September 1911.)
A Regulation to amend the Mysore Municipal Regulation, VII of 1906.*

Whereas it is expedient to amend in certain respects the Mysore Municipal Regulation, VII of 1906; His Highness the Maharaja is pleased to enact as follows:—

1. In Section 48, sub-section (1), clause (k), after the words "providing for the exhibition of tables of octroi," the following words shall be inserted, namely:—"requiring a license to be obtained for the sale of any article liable to octroi and prescribing the conditions on or subject to which such license may be granted, refused, suspended or withdrawn."

Amendment of clause (k), sub-section (1) of section 48.

2. After Section 77, the following section shall be inserted, namely:—

"77 A. (1) Any person selling or keeping for sale without a license any article liable to octroi for the sale of which a license is required to be obtained, or having in his possession any such article on which octroi has not been paid, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the articles so sold or kept for sale, or possessed, or rupees one hundred whichever may be greater; and

Penalty for selling articles liable to octroi without a license or for being in possession of any such article on which octroi has not been paid.

"(2) Any officer of the Municipal Council authorised by the Municipal Council in this behalf, if he has reason to believe that any such article on which octroi has not been paid, is kept or concealed in any premises, may, after obtaining the warrant of a Magistrate, enter and search at any time such premises and, if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same:

Seizure of articles on which octroi duty has not been paid and arrest of persons in possession of such articles.

"Provided that any article or person so seized or arrested shall be produced before a Magistrate exercising jurisdiction within the Municipality within twenty-four hours from the time of such seizure or arrest:

"Provided also that nothing in this section shall apply to any such article not exceeding Rs. 200 in value kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

"(3) The provisions of the Code of Criminal Procedure shall, so far as may be, apply to all searches and arrests effected under this section."

Searches and arrests to be governed by the provisions of the Criminal Procedure Code.

Addition of a section after Section 175.

3. After Section 175, the following section shall be inserted, namely:—

"175 A. The Government may, from time to time, make rules not inconsistent with this Regulation as to the preparation of plans and estimates for works which are to be partly or wholly constructed out of the Municipal Fund and the authority by whom, and the conditions subject to which, such plans and estimates for works may be sanctioned."

Government may frame rules as to the preparation, etc., of plans and estimates for works.

4. In schedule 1, above the words "for every other vehicle with springs and every palanquin, bicycle or tricycle, Rs. 6" there shall be inserted the following, namely:—

Amendment of schedule 1.

	Rs.
"For every motor car ...	30
For every motor cycle ...	15"

T. ANANDA ROW,
Dewan.